Are Markets in Personal Information Morally Impermissible?

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Abstract

In this paper, I shall discuss what I call the Argument From Exploitation. This argument has as its conclusion that for-profit markets in personal information are morally impermissible. The main premise given for this conclusion is that markets in personal information involve exploitation of vulnerable people, and appertaining inequalities. I try to show that at least one of the premises of this argument is false. I then entertain an objection to my argument that holds that adding the option for vulnerable people to sell their personal information is in itself harmful, even if these people would be better off if they took the option. I try to demonstrate why that objection is not successful. In the end, I conclude that the Argument From Exploitation is not sound, and that until proven otherwise, we should thus think that markets in personal information are morally permissible.

Introduction

Since ”information”, ”market” and ”personal” can all denote many different things, so can a ”market in personal information”. When I use the latter term in this paper, I shall mean the following: A for- profit market in personal information, where people can sell information about their sex, age, job, medical history, consumer habits, online browsing history etc. Markets in information can be barter markets, or it can be monetary markets[i]. Such information markets are already in place. When we create a ”free” account on a social media platform, the service we receive is often in exchange for the data we produce while we use the service, and sometimes also the data created on the device we are accessing the social media platform from. In that sense, the service is not free at all. In the social media market, the seller of information does usually not receive monetary goods in exchange for the information. Instead, she gets access to the service provided by the social media company. So, in information markets, information is not always exchanged for money. The personal information bought on these markets are often used for advertisement purposes. Online targeted advertisement based on personal information is one of the most lucrative markets in the world (Rössler 2015: 141). This fact makes the discussion about the permissibility of these markets very important and pressing. Even though people's lives are rarely at stake when information is bought and sold, as opposed to, say, organs, the size of the information market makes it worth discussing.

In this paper, I will discuss arguments related to markets where personal information is both traded for money directly, and markets where it is not. There has been a lengthy debate in the philosophical literature about whether there should be limits to what money can buy[ii]. These limits can be moral or legal. A moral limit means that it is morally impermissible to sell or buy certain things. A legal limit means that it is illegal to sell or buy certain things. For example, most people probably think that it is morally permissible to have sex with other consenting adults, but some people think that it is not morally permissible to have sex with a consenting adult for money. In some countries, the latter is even illegal. Likewise, it is often said that it is morally permissible to donate your kidney, but some people think that it is morally impermissible to sell your kidney. In most countries, the latter is illegal.

Occasionally a new article about the moral or legal permissibility of markets in personal information is published – some in academic journals (Lauden 1993; Jerome 2013), others in the popular press (Buytendijk & Heiser 2013). Some of them argue that markets in personal information are morally wrong, and others argue that these markets are perfectly permissible or should even be encouraged. But, little attention has been paid to the markets in personal information in the philosophical literature on the limits of markets (See Rössler 2015 for an exception). In this paper, I will try to do just that by reconstructing an argument in favor of the view that for- profit markets in personal formation is morally impermissible, due to their exploitative nature. I will then try to demonstrate why that argument is not sound, and thus why at least that specific argument should not convince us that for- profit markets in personal information are morally impermissible.

Markets in Personal Information

In this section, I will briefly explain what a market in personal information is and how it works. Simply put, markets in personal information can, like all markets, be separated into two categories. The first category is barter markets, the second is monetary markets. In a barter market, goods or services are exchanged for goods or services. In a monetary market, goods or services are exchanged for money or a similar means of exchange (Binswanger 2013). When social media platforms offer their services in exchange for the user's data, it is an instance of barter. When so-called PIMS (Personal Information Management Services) help individuals manage and sell their personal information to others, it is an instance of monetary markets. PIMS can work in many different ways, but a common way is the following: The data owner, call him Owen, pays the company running the PIM a fee to help him control and manage his online personal data. Data brokers can then buy Owen's data through the PIM. Owen has full control over to whom the data is sold, and Owen gets a cut every time his data is sold (See European Data Protection Supervisor)[iii].

A common market in personal information that is both a barter market and a monetary market, is the market in information produced through so-called Internet of Things (IoT). In this market, people produce personal electronic information through their internet-connected devices, such as robot vacuum cleaners, electricity meters, self-diving cars etc. In IoT markets, the data produced through these devices are usually not traded directly for money between the "producer" of the data, and the producer of the device. Instead, the producer of the data gets an ever-improving device, since the producer of the device will use all the data produced by all its customers, to create updates to the devices. Some Artificial Intelligence based devices can even learn from past mistakes in real-time (Holstein et al. 2018). This means that the robot vacuum cleaner will be more efficient, the self-driving car will make fewer mistakes etc. However, some IoT companies also offer platforms, where the producer of the information can sell the information directly to others, and get a cut of the prize (See blog.iota.org). So, specific IoT markets are sometimes set up as both a barter market and a monetary market, and the costumer can choose which way she wants to "sell" her information.

There are numerous other examples of markets in information, but I think these examples will suffice for the purpose of this paper. The arguments and objections discussed in this paper are related to both barter markets and monetary markets, although the objections often involve money. Thus, the arguments and objections are not sensitive to the means of exchange in question, and neither are they sensitive to the specific way in which the information came about. In the next section, I will present an argument which has as its conclusion that for- profit markets in personal information are morally impermissible. I shall call it the ”Argument From Exploitation”.

The Argument From Exploitation

In this section, I reconstruct an argument based on a worry that seems to be very common in both the academic literature and in the popular press[iv]. I reconstruct it because no one has put it on argumentative form explicitly, as far as I know. The worry is that poor people will be willing to give away or sell their personal information cheaply[v], and that rich people will exploit this fact by offering poor people very bad deals when they buy personal information from the poor. This exploitation is presumably problematic in itself, but it also tends to lead to problematic inequalities in society. Or so the worry goes. Besides the exploitation in itself and the appertaining inequality, one of the things that seems to trigger this worry is that we are talking about personal information. The more personal information you sell, the less privacy you have. Moreover, the less privacy you have, the harder it will be to live a flourishing and autonomous life (van der Sloot 2014; Moore 2010: 33). If we had been talking about non-personal information, or other goods or services, which are not manifestly important for people's lives to go well, the worry would not be as evident as it is.

One academic proponent of the worry that markets in personal information will lead to increased inequality, is Joseph Jerome in his article ”Buying and Selling Privacy: Big Data's Different Burdens and Benefits” (Jerome 2013) (See also Thouvenin, Weber, & Frueh, 2017: 7; Grassegger, 2018 for examples where data buyers and collectors presumably externalize costs on poor people, while internalizing benefits). In this article, Jerome summarizes the worry in the following way: “While the benefits of the data economy will accrue across society, the wealthy, better educated are in a better position to become the type of sophisticated consumer that can take advantage of big data.” (Ibid: 50)

The philosopher Beate Rössler seems to share this worry. In her article ”Should Personal Data be a Tradable Good?” she follows Debra Satz' general worry about markets: “Satz describes and analyses many different examples of markets producing inequality through exploiting weak agency and through exploiting the vulnerability of the parties involved. (Rössler 2015: 150) [vi].

She then goes on to apply this general worry to the market in personal data, claiming that the exploitation leads to ”detrimental inequalities”. She writes:

> “If we apply these arguments to the market in personal data, we can see that this market can easily produce detrimental inequalities: it is precisely one of the goals of online advertisers to treat people differently in order to get more “hits” and make more profit”. (Ibid: 151)

Later in this section, I will explain which forms of exploitation the proponents of this worry seem to think are at stake here. The argument from this worry can be reconstructed on a standard form like this:

The Argument From Exploitation:

Premise 1: For- profit markets in personal information are morally permissible only if they do not involve exploitation of poor people, which leads to problematic inequalities.

Premise 2: For- profit markets in personal information do involve exploitation of poor people, which leads to problematic inequalities.

Conclusion: Therefore, for- profit markets in personal information are morally impermissible. (From 1 and 2).

I think there are good reasons to be skeptical about premise 1. To see this, it is necessary to show that 1) it is true that for- profit markets in personal information are morally permissible, while 2) it is false that these markets do not involve exploitation of poor people, which leads to problematic inequalities. If premise 1 is false, then we already know that the Argument From Exploitation is not sound. Premise 2 is an empirical premise. It cannot be settled from the armchair[vii]. However, in the refutation of premise 1, I try to show that markets as such in personal information are not morally impermissible, even if they involve exploitation of poor people. Therefore, I will initially assume that markets in personal information do in fact involve exploitation, which leads to extensive inequalities. My strategy is then to show that the conditional in premise 1 is false, even if we, for the sake of argument, grant the negation of the necessary condition in the conditional, which is also to grant the truth of premise 2.

Now, what could the proponents of the Argument From Exploitation mean by ”exploitation”? Philosophers often distinguish between transactional exploitation, and structural exploitation. The difference is this:

> “Exploitation can be transactional or structural. In the former case, the unfairness is a property of a discrete transaction between two or more individuals. A sweatshop that pays low wages, for example, or a pharmaceutical research firm that tests drugs on poor subjects in the developing world, might be said to exploit others in this sense. But exploitation can also be structural—a property of institutions or systems in which the “rules of the game” unfairly benefit one group of people to the detriment of another.” (Zwolinski & Werheimer 2017)

In relation to markets in personal information, buying information from poor people might be said to be exploitative in the transactional sense, because the buyer takes advantage of their desperate situation, given a strong presumption that they are willing to accept a much lower price for their information, than people in non-desperate circumstances would be. Information markets could also be said to be exploitative in the structural sense. Perhaps the information market is structured in a way that only benefits the buyer. The structural exploitation is what Jerome seems to be getting at in the quote above. Since nothing of argumentative importance hangs on which form of exploitation is present in information markets, I have not specified the type of exploitation in the Argument From Exploitation. In the next section, I will argue that there are many reasons to be skeptical about premise 1. I will also argue that there are ways to avoid exploitation and inequality in markets in personal information, and that if this is true, then we should not prohibit these markets.

Skepticism about premise 1

I will now try to explain why I think there are reasons to be skeptical about premise 1. First, I will repeat a few points from the literature on markets in organs, and the literature on the ethics of sweatshops, which I think are applicable to markets in personal information as well.

Let us begin with a few points from the literature on markets in organs[viii]. First, if the problem with exploitation in for- profit markets in organs is that the seller of the organ does not have enough options available to her, then blocking the option of selling her organ on a market is not making matters better for her. On the contrary, blocking the option of selling her organ on a market is prima facie contra productive if the goal is to provide the seller with more options[ix].

Second, if the main concern of a market in organs is exploitation, then banning the market is contra-productive, since all evidence shows that there is more scope for exploitation when a market in goods supplied by people in desperate circumstances is illegal, than when it is legal (Radcliff et al. 1998: 1951). We have to remember that imposing a law does not imply compliance with the law. Another common worry with the alleged exploitation is that it will lead to inequality in access to organs. But, if we take status quo to be the relevant comparative measure, then this worry seems strange. Why would it be worse if many rich people had more access to functioning organs, than if no one did? It seems very harsh to say that if not everyone can have access to life-saving organ transplants, then no one should have it. There are no morally relevant differences between markets in organs and markets in personal information[x], which can explain why we should allow markets in organs, but not in personal information. If anything, there may be a stronger reason in favor of banning markets in organs than there is in favor of banning markets in personal information.

Let me now turn to a few points from the literature on sweatshop ethics[xi]. First, if many desperately poor people accept jobs at sweatshops, then there is at least a presumption in favor of thinking that doing so is the best option available to them. Working in a sweatshop may be horrible, but that does not mean that the realistic alternative is any less horrible. It might just mean that offering desperately poor people a job at a sweatshop can improve these people's conditions from very bad, to bad. We must also remember that making such offers is more than what most people do. Most of us do nothing, or very little, to improve the conditions for desperately poor people. So why think that the owners of sweatshops are doing something morally worse than the rest of us, who do little to nothing to help the desperately poor? Again, there seems to be no morally relevant differences between the case of sweatshop labor, and the case of markets in personal information, which can explain why we should allow sweatshop labor but not markets in information. If anything, there might be a stronger presumption in favor of banning sweatshop labor than there is of banning markets in personal information.

Of course, these prima facie reasons to allow markets in personal information are not decisive in any way. They will probably not convince anyone, who was not already convinced of the moral permissibility of markets in personal information in the first place. In addition, those who are already convinced of the wrongness of markets in organs and sweatshop labor (and I presume that many people are) may just have been convinced of the wrongness of markets in personal information by my comparison. However, my goal was only to point to the moral similarities between markets in organs, sweatshop labor, and markets in personal information. Even if one is not pulled by the reasons I just provided, I think there are further reasons to think that markets in personal information are not morally impermissible. The weightiest reason is that such markets need not come with any exploitation or inequality.

I have provided prima facie reasons to allow markets in personal information, even if they involve exploitation of poor people, which leads to problematic inequalities. But, there are also reasons to think that markets in personal information do not need to come with these alleged problems. If there is a way to have a market in personal information that does not come with these problems, then we should at least allow that market. The idea is that we can fine-tune, or regulate, market features to counter any objection we might have to a given market, including objections from exploitation and inequality (Brennan & Jaworski 2015: 1058)[xii]. If we can fine-tune markets to avoid exploitation and inequality, then it is the exploitation and inequality that might be morally impermissible, not the market as such in which it occurs. In other words, it is not the exchange in itself, of money or goods for personal information that can make the market morally impermissible.

Brennan and Jaworski apply this strategy to a long list of objections, which people have suggested to certain markets. They recapitulate the objections like this:

"A. Wrongful Exploitation: Some markets—for example, in organ sales—might encourage the strong to exploit the vulnerable.

B. Misallocation: Some markets—for example, in Ivy League admissions—might cause those goods to be allocated unjustly.

C. Rights Violations: Some markets—for example, in slaves—might violate people's rights.

D. Paternalism: Some markets—for example, in crystal meth or cigarettes—might cause people to make self-destructive choices.

E. Harm to Others: Some markets—for example, in pit bulls or handguns—might lead to greater violence or injury to others.

F. Corruption: Certain markets—for example, in Disney Princesses for one's daughters—will tend to cause us to develop defective preferences or character traits.

G. Semiotics: Independently of noncommunicative objections, to engage in a market in some good or service X is a form of symbolic expression that communicates the wrong motive, or the wrong attitude toward X, or expresses an attitude that is incompatible with the intrinsic dignity of X, or would show disrespect or irreverence for some practice, custom, belief, or relationship with which X is associated." (Brennan & Jaworski 2015: 1053-1055)

The problems of exploitation and inequality (I take "misallocation" on the list to mean roughly the same as inequality here) are just two of the objections on the list. According to Brennan and Jaworski, the fine-tuning strategy works for all of the objections on the list. For the purpose of this paper, however, I do not need such a strong claim. I only need to show that the fine-tuning strategy works for exploitation and inequality specifically. Setting limits as to how much people may earn in order to participate in the market is a simple but, I think, sufficiently clear way to do that. There are at least three ways to set such limit(s). One way is to set a lower limit, in order to make sure that people are not too poor when they sell their information. A second solution is to set an upper limit, in order to make sure that people are not too rich when they buy information. A third solution is to set both a lower- and an upper limit, so that you have to earn less than $X but more than $Y to participate in the market[xiii]. All three solutions are prima facie efficient ways to avoid both exploitation and inequality in the market.

It has recently been suggested that Brennan and Jaworski's fine-tuning strategy does not always work in real-life markets, since the features that need to be fine-tuned are interdependent (Stout & Carothers 2016). The example given by Stout and Carothers is about markets in kidneys[xiv]:

> "For example, if kidneys are sold at a price determined by supply and demand, then those who are willing and able to pay will purchase kidneys, thus eliminating the shortage. One worry that an anti-commodification theorist might point to would be that this form of market would only give kidneys to those with greater income/wealth. An anticommodification theorist may object that the allocation mechanism of this market is unjust. One possible way to solve this issue would be to overcome this problem would be to change the means of exchange. A famous example of this type of market was the ration cards given by governments during WWII (Goodwin et al., 107). Notice that we solved one difficulty caused by one market dial by turning another one." (Ibid: 206)

The worry pressed by Stout and Carothers is that in some markets, the features of the market are interconnected, so that if we fine-tune one feature, we change another. In the example above, Stout and Carothers tried to solve the presumed problem of misallocation by changing the means of exchange. But, changing the means of exchange in a market is another feature than the feature it is supposed to solve. So, Stout and Carothers say, Brannan and Jaworski have not shown that "… there is a policy proposal that could create a market that would assuage all the worries of the anti-commodification theorists" (Ibid).

Suppose that Stout and Carothers are right when they say that real life market features are interconnected in a way that Brennan and Jaworski were not aware of. Should Brennan and Jaworski be worried about this? Only in relation to markets where fine-tuning market feature P in order to solve problem Q causes another problem R, and by solving problem R, it is necessary to fine-tune market feature S, and so on either *in ad finitum* or *petitio principii*, so that there is no way to avoid all problems in a market[xv]. It is possible that such markets exist, but Stout and Carothers have not offered an example of such a market, and I cannot think of any myself. And, given that we are talking about exploitation and inequality specifically, it seems relatively straightforward to apply the fine-tuning strategy to markets in personal information. Stout and

Carothers' critique is of course not the only critique that could be offered to the fine-tuning strategy. But until a successful one has been offered, we should grant that the fine-tuning strategy is a good way to counter the objection that markets in personal information are morally impermissible because they involve exploitation and inequality. In the next section, I will present a prima facie plausible objection to markets in personal information, which is not on Brennan and Jaworski's list, and then I will try to show why this prima facie plausible objection is not convincing after all.

The Added-Option Objection

Let us now consider an objection, which I take to be one of the most promising objections an anti-commodification theorist can make to a market in personal information. The objection, however, has originally been raised to markets in organs, and it is not on Brennan and Jaworski's list. It is not only relevant for markets in organs, though. I will try to apply it to markets in personal information, and then try to show why it is not a successful objection. I will call it the Added-Option Objection. This objection has been offered by Simon Rippon (Rippon 2014), and it goes something like this: Sometimes it is wrong to add an option for people who are in desperate circumstances, even if they would be better off, if they took the option (Rippon 2014: 146). This may sound self-refuting, but consider this: If desperately poor people in third world countries were given the option to sell their kidney, they might be harmed even though they would be better off making use of the option. There are many ways in which added options can be bad for people, according to Rippon. He gives the following example:

> "… if I were to dial the emergency number in England having suffered a heart attack, the operator would ask me which emergency service is required. If I ask for an ambulance, I would not be offered further options of which particular model of vehicle is to be dispatched. If I were offered options, perhaps I would be better off taking some such option than I would be with whatever would have been provided to me by default" … "For each additional option provided, there are clear costs: increased time and other resources will be needed in order for me to choose

> between my options, and the chances of my decision being optimal may well decrease as more options are added." (Ibid)

This example shows that sometimes having added options can be bad for you, because these options can make it harder to make the best decision under the given circumstances. Other times, not having certain options available can be good for you for strategic reasons. For example:

> "… imagine a cashier at a rural filling station that is potentially vulnerable to an overnight robbery. It may be better for the cashier to have no key to the safe (and to have a prominent sign displaying that information) than for the cashier to have the key which gives him the option to open it." (Ibid: 147)

However, Rippon is not arguing that the above mentioned ways of making people worse off by adding options constitute sufficient reasons for prohibiting markets in organs. Rather, he thinks that in some cases, we harm people in poverty by giving them the option to sell their organs, not because taking the option is bad for them, but because having the option is (Ibid: 146). The reason is that if we add the option of selling kidneys, for instance, the governments in poor countries might say that their citizens cannot get a debt relief, for instance, because if they just sold their kidney, they could afford to pay off their debt[xvi]. When we know that this happens, we have a moral obligation not to give these poor people the added option of selling their organs. Or so the Added-Option Objection goes.

Applying the objection to markets in personal information, it is important to note that the Added-Option Objection does not press the same point as the Argument From Exploitation does. While the Argument From Exploitation holds that it is the exploitation and appertaining inequality in markets in personal information that is problematic, the Added-Option Objection holds that it is the added option itself of selling information on a market that can be harmful. Note also, that while the Argument From Exploitation talks about exploitation, the Added-Option Objection talks about harm (exploitation can of course be harmful in itself)[xvii]. However, one might say that the harm in question can occur only because people in rich countries will be tempted to exploit the desperate situation of people in poor countries. If it were not for the exploitative nature of the relation between the rich buyer and the poor seller, the harm would not have been possible in the first place. Or so the proponent of the Added-Option Objection might say.

In the previous section, I offered a range of objections to the Argument From Exploitation. I have now presented the Added-Option Objection as an attempt to shift the readers' sympathies back in favor of a moral condemnation of markets in personal information, assuming that the reader was convinced by the fine-tuning strategy. In the remainder of this section, I shall try to explain why we should not make that shift in sympathies, and thus why we should ultimately not be convinced by the Added-Option Objection.

I think the objection can be averted through the fine-tuning strategy, in combination with a refutation of Rippon's empirical claim. The empirical claim is this: The introduction of the market in question will lead to increased pressure to make use of the added option once it is there. Let me start with the fine-tuning strategy. We could fine-tune the market in personal information in a way that would escape the Added-Option Objection. For example, we could say that people may not have any unpaid debt (or whatever negative situation we are worried will remain to exist or be amplified, once the market is in place), in order to take part in the market. That way, those who would benefit from the added option would still be able to participate, and those who would be harmed by the added option would be protected from that harm.

The skeptic might wonder whether the fine-tuning strategy would lead to people not being equal before the law, since only some people would be allowed to participate in certain markets. In a strict sense, the fine-tuning strategy implies people not being equal before the law. However, in that strict sense, people are not equal before the law in a great number of cases. For example, in many countries you have to be a certain age to get a driver's license, you have to be a certain age to vote, you have to be a certain age to get a discount on public transport, you have to be sufficiently poor to be able to receive financial support or food stamps from the government etc. If this worry is to be taken seriously, we have to revise a great number of policies. Policies which we would probably not be willing to deem morally problematic. If that is true, we should not be so worried about the implication that people would not strictly speaking be equal before the law.

I will now turn to the skepticism about Rippon's empirical claim. In Rippon's own words, the claim is this:

> “If a free market in organs was permitted and became widespread, then it is reasonable to assume that your organs would soon enough become economic resources like any other, in the context of the market. (Ibid: 147-148)

This empirical claim seems questionable. Consider this analogy: In countries where prostitution is legal, it is normally not expected or demanded that poor citizens try to get a job as a prostitute, before they can get a debt relief or receive financial support from the government. Applied to markets in personal information, governments would probably not demand that poor citizens go ahead and sell all of their personal information on the market, before they can get a debt relief or receive financial support. Rippon’s empirical claim might of course turn out to be true, but it is a guess from the armchair, and if anything, there seems to be a presumption against it.

The original Added-Option Objection does not presuppose a default setting of organ markets being permissible, since it talks about adding the option of selling organs. Given that such markets are currently illegal in most countries, talking about adding the option makes sense. But, maybe some of the objection’s appeal is due to the contingent fact that markets in organs are already illegal in most countries. Maybe there is something like a status quo bias or an anchoring bias at play here (See Kahneman et al. 1991 and Wilson et al. 1996). Maybe our moral evaluation of a market is affected by contingent facts about whether that market is legal or not at the moment. If we know that a given market is illegal, we might be biased to think that the market must also be morally impermissible. Or, maybe our moral evaluation of a market is affected by what information about the market we receive first. If we receive the information that some people are harmed by the market, maybe we are more prone to deem the market as such morally impermissible, whereas if the first information we received was that many people are bettered by the market, we might be more prone to deem it permissible, even when it is the exact same market we are talking about in these two cases. At any rate, if the market in organs had not been prohibited in the first place, we would not have been talking about adding options. Rather, we would probably be talking about how we could avoid the problem of harming certain participants in the markets, namely those people who for instance might not be able to receive a debt relief or receive financial support from their governments due to the existence of the market. In that situation, the fine-tuning strategy should be on the table on the same footing as a complete prohibition of the market.

Let me now close this section with one final point: Normally, we do not condemn an entire market whenever some specific participants are made worse off due to the added option of taking part in the market. Consider this: Jones owns an old house in a desolate area. Jones' house is not worth much, and consequently he is allegeable for financial support from the government. Along comes Smith and his rich family. They build big expensive mansions around Jones' house. As a consequence, Jones' house is now worth a bit more than it was before, and now Jones is not allegeable for financial support anymore. As it happens, the value of Jones' house before Smith and his family built their mansions, plus the financial support was worth more than Jones' house is now. So, Smith and his family moving to the area has not been a net benefit for Jones. In fact, the option of buying land and building houses has harmed Jones. But that is not a sufficiently good reason for deeming markets in land and houses morally impermissible[xviii]. If the government should do anything at all in this case, it seems clear that they should begin by either compensating Jones or regulating/fine-tuning the market, not prohibit the market completely. There seems to be no good reason why we should not prefer regulation over prohibition, when it comes to markets in personal information too.

Concluding Remarks

In this paper, I have tried to defend the view that markets in personal information should not be deemed morally impermissible, at least not for the reasons given by the proponents of the Argument From Exploitation. I presented the Argument From Exploitation on behalf of the anti-commodification theorist, which had as its conclusion that markets in personal information are morally impermissible. This argument seems to be defended by many people in both the academic literature and in the popular press. I have tried to demonstrate that the first premise of the argument it at best very questionable, and that the argument is thus probably unsound. I did so by applying a range of relevant points from the literature on markets in organs, and the literature on the ethics of sweatshops. I then argued that markets in personal information can be fine-tuned in ways that can handle the problem of exploitation, and the inequality which allegedly comes with the exploitation. Then I presented what I take to be one of the most promising objections to markets in organs, namely the Added-Option Objection, applied it to markets in personal information, and tried to show why it does not succeed either.

It is important to note that all I have said in this paper is compatible with the view that markets in personal information are impermissible. I have only showed that the Argument From Exploitation does not succeed in showing why markets in personal information are impermissible. It is still possible, however, that there are other, more successful arguments, to be made for the case that those markets are impermissible. Until such an argument has been presented, we should accept the view that markets in personal information are permissible.

Author Biography

Jakob Mainz is a PhD student at Aalborg University in Denmark. He holds a BA and an MA in Applied Philosophy, also from Aalborg University. His research focuses primarily on the ethics of artificial intelligence and privacy, and his work has been published in venues like Res Publica and Critical Review of International Social and Political Philosophy.

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[i] See section 2.

[ii] See e.g. (Sandel 2013), (Satz 2010), (Brennan & Jaworski 2016), (Radin 1996), (Richards 2012).

[iii] If you for example use the personal data manager Datacoup, you will earn approximately $8 a month (Simonite 2014). For a discussion about how something like a PIM could work if people had legal rights to control use of all personal information, see Cheneval 2018.

[iv] In the remainder of this article, I will only discuss arguments from the academic literature. For an already famous article in the popular press about this worry, see Scott 2018.

[v] This is supported by empirical evidence. See See, e.g., Alessandro Acquisti et al. 2010.

[vi] Rössler does not argue, however, that this is the only worrisome feature of markets in personal information. She writes: "The reason why commodifying and commercializing data that were supposed to belong to and stay in the sphere of social relations is harmful is because it ultimately hinders and distorts my autonomy and identity…" (Rössler 2015: 149). My argument in this paper is compatible with accepting an argument from autonomy infringements against the permissibility of markets in personal information. I only claim that the following Argument From Exploitation is not sound.

[vii] Unless premise 2 is read as a conceptual premise. In that case, we would have something to say to it from the armchair. I do not, however, think that is what the proponents of the Argument From Exploitation have in mind.

[viii] See (Taylor 2005; 2015; 2016; 2017), (Koplin 2014; 2017), (Deonandan, et al. 2012), (Rivera-Lopez 2006), (Veatch 2003).

[ix] See Radcliff-Richards et al. 1998 for a discussion of this point in relation to markets in organs. This point takes for granted that the default setting must be that market exchanges between sufficiently informed consenting adults are permissible. In the next section, I discuss an objection, which does not make this assumption, namely the Added Option Objection.

[x] Except that the personal information bought by the rich people can potentially be used to exploit the poor people further, in a way that organs cannot. It is still not clear, however, why participating in the market would not still be the best option available to the poor.

[xi] See e.g. (Zwolinski & Wertheimer 2017), (Powell & Zwolinski 2012).

[xii] The market features that can be fine-tuned/regulated can for instance be the participants, the means of exchange, the price, the proportion/distribution in the market, the mode of exchange, the mode of payment or the motive of exchange (Brennan & Jaworski 2016: 39)

[xiii] I am not suggesting that we should set such limits. I am only suggesting that if doing so can make a market in personal information morally permissible by avoiding exploitation, then the problem is not with the market as such.

[xiv] Note that their misallocation worry is an instance of B. on Brennan and Jaworski's list.

[xv] Or, perhaps fine-tuning certain market features in one market, create unacceptable consequences in another market. This has been suggested by Luke Semrau. He gives this example: "But adjustments made to one specific market may have dramatic consequences for other markets. Even if it is true that kidneys may be permissibly sold, and babies may be permissibly sold, and sex may be permissibly sold, it doesn't follow that kidneys, babies and sex may be permissibly sold under jointly realizable conditions." (Semrau 2017: 330-331)

[xvi] Rippon uses the case of a poor person being unable to pay rent. But, applying the principle of charity, I think his case is stronger if the case is about debt reliefs, since presumably you have a stronger moral obligation to pay a debt, than to pay for the next month's rent.

[xvii] Earlier I said that the Added-Option Objection is not on Brennan and Jaworski's list. Although the common objections from *harm to others* are on the list, the harm involved there is not due to the mere *option* of selling a good on a market, but rather to the contingent harmful consequences of doing so.

xviii The analogy is not perfect, since if markets in land and houses were morally impermissible, then Jones would be doing something morally impermissible too, since he also owns a house. However, the point of the analogy is only to illustrate that if some participants in a market are harmed by the existence of the market, then fine-tuning should be preferred over prohibition by default.

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